

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
Plaintiff

v.

JOSHUA OYOLA-RIVERA
Defendant

Criminal No. 17-598(CCC)

OBJECTION TO PRE-SENTENCE INVESTIGATION REPORT

TO THE HONORABLE CARMEN CONSUELO CEREZO
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF PUERTO RICO:

COMES NOW the defendant, Joshua Oyola-Rivera, represented by the Federal Public Defender through undersigned counsel, and respectfully hereby objects to paragraph 42 and 43 of the Pre-sentence Investigation Report. Specifically, the defendant moves to delete paragraph 42, and consequently to amend paragraph 43 so it correctly establishes a CHC of II.

Paragraphs 42 and 43 state as follows:

42. 08/13/2013 (Age 29)

Violation to Article 198 of the PR Penal Code (2012): Damages Cr. No. KBD2013M0727

Violation to Article 198 of the PR Penal Code (2012), reclassified to Article 199: Damages Cr. No. KBD2013M0119/ Superior Court, San Juan, PR

09/18/2013: Pled guilty and sentenced to 30 days of imprisonment as to each count, to be served consecutively to each other, and consecutively to any other sentence previously imposed.

4A1.1(b) 2

Court documents were requested, once received, the report will be amended accordingly.

43. The criminal convictions above result in a subtotal criminal history score of five (5). According to the sentencing table in USSG Chapter 5, Part A, a criminal history score of five establishes a criminal history category of III.

The defendant informs that the reported 2013 conviction does not belong to him. As disclosed by USPO Acevedo during the PSR interview, the Probation Officer does not have any court documents that support this information. The information contained in paragraph 42 derives from information reported in the Pretrial Service Report. The information disclosed in the Pretrial Services Report was not obtained by examination of court documents but by asking a clerk over

the telephone. On August 7, 2018, the undersigned counsel went to the San Juan courthouse, Clerk's office for closed files. The undersigned counsel personally reviewed the files in question and spoke to the administrative staff regarding this matter. Here are our findings:

- 1- There have been no cases ever filed against Joshua Oyola Rivera in San Juan court. The staff reviewed the system and the only cases in all PR filed against Joshua Oyola Rivera are the Bayamon cases from 2003 that were reported in the PSR at paragraph 41.
- 2- The two cases on dispute were filed against a person with different name and different personal identifying information from the defendant. These cases were filed against a person by the name of JOSE OYOLA RIVERA. Address, date of birth and social security number were provided to USPO Acevedo. All court documents have the same address, date of birth and social security number provided to USPO Acevedo, that are different from defendant's personal information.

WHEREFORE, the defendant moves this court to grant the foregoing objection and to proceed as requested.

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 4th day of September 2018.

**ERIC A. VOS
FEDERAL PUBLIC DEFENDER**

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